

DETAILED ACTION

Response to Amendment

1. The reply filed on June 5, 2009 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Claims 24-26 that were examined in the last office action mailed on December 5, 2008 were drawn to a method for hedging a deferred compensation liability associated with a deferred compensation plan, comprising: arranging a forward contract including a put and a call between a party sponsoring the deferred compensation plan and a counterparty; and using the forward contract to hedge the deferred compensation liability; whereas the newly presented claim 27, is drawn to a method for dynamically hedging a plan sponsor's non-qualified deferred compensation liabilities comprising: receiving, by a computer, data comprising allocations to at least one reference fund selected from a group of reference funds related to a plan sponsor's non-qualified deferred compensation liabilities; calculating and reporting, by a computer, based at least in part upon the received data, a notional principal amount for a total return swap arranged between a plan sponsor and a counterparty based on summing at least a portion of an accumulated deferred compensation plan's liabilities for each participant in the plan, wherein the plan sponsor's liabilities to each participant in the plan represents an unsecured general obligation of the plan sponsor arising from a deferral of receipt of at least a portion of participant's compensation and notional investment of an amount of the deferred compensation in at least one reference fund selected from a group of reference funds; calculating and reporting, by a computer, based at least in part upon the received data, an adjusted notional principal amount by adding or subtracting to the notional principal amount an additional amount of

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deferred compensation, distributions, gains or losses; receiving, by a computer, data of at least one periodic value-based amount between the plan sponsor and the counterparty under the arranged total return swap on at least one periodic value based amount allocated to the at least one reference fund selected from the group of reference funds which fluctuate with the market performance of at least one of the reference funds in which at least one participant in the deferred compensation plan is notionally invested; reporting, by a computer, allocations to the at least one reference fund selected from the group of reference funds of the counterparty; and comparing, by a computer, the results of the periodic value-based amount from the counterparty to the notional investment of an amount of the plan sponsor's deferred compensation liabilities, so as to hedge at least a portion of the plan sponsor's deferred compensation plan liabilities.

Clearly the methods of the examined claims 24-26 and the newly presented claim 27 are different, as evidenced by their respective steps, making them different in their scope and utility. Hence the two methods are distinct and different inventions. See 37 CFR 1.111. Also the two inventions require substantially different searches. The general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter (See MPEP 8.19). When claims are presented which the examiner holds are drawn to an invention other than the one elected, he or she should treat the claims as outlined in MPEP 8.21.03.

The applicant elected the former invention by original presentation. The rejection of the examined claims as discussed in the office action stands. (See MPEP 8.21.03) Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the

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omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Applicants are also respectfully requested to cancel the withdrawn claims 1-23 in their reply to this office action. Applicants are requested to note the Examiner's new art unit number (**AU 3695**) in their reply to this office action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached at (571) 272-6746. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Narayanswamy Subramanian/
Primary Examiner
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June 11, 2009